

## Legal action alleges further underpayment of NSW hairdressers

3 October 2014

The Fair Work Ombudsman has commenced further legal action relating to alleged underpayments of hairdressers at a business operated by NSW businessman Nelvin Nitesh Lal.

Facing Court is Mr Lal's company The House of Color @ Tuggerah Pty Ltd, which operated a hairdressing salon on the NSW Central Coast.

The Fair Work Ombudsman alleges the company breached workplace laws by failing to back-pay three underpaid hairdressing employees a total of \$3620.

The litigation comes after the Fair Work Ombudsman earlier this year commenced legal action against Mr Lal and three other NSW hairdressing companies he operates – and took the unprecedented step of seeking an injunction restraining him from underpaying his employees.

The legal action, which is still before the Federal Circuit Court, came after the Agency received complaints from young, vulnerable workers (see [Court ruling sought on underpayments \(http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2014-media-releases/september-2014/20140901-lal-litigation-and-injunction\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2014-media-releases/september-2014/20140901-lal-litigation-and-injunction) media release).

In the latest case, the three employees of The House of Color @ Tuggerah Pty Ltd, including an apprentice aged 23 and two workers aged 24, were allegedly not paid accrued annual leave entitlements on termination of their employment earlier this year.

The Fair Work Ombudsman investigated after the employees lodged requests for assistance and issued Compliance Notices that required the underpayments to be rectified within 21 days.

Under the Fair Work Act, companies must comply with Compliance Notices issued by Fair Work inspectors or make a court application for a review if they are seeking to challenge a Notice.

“Our inspectors made extensive efforts to engage with this company to try to resolve the matter by agreement, but as has been the case previously, we have not been able to secure any co-operation from Mr Lal or his company,” Acting Fair Work Ombudsman Mark Scully says.

The House of Color @ Tuggerah Pty Ltd faces a maximum penalty of \$25,500 and the Fair Work Ombudsman is also seeking Court Orders for the company to back-pay the employee in full.

A directions hearing is listed in the Federal Circuit Court in Sydney on October 23.

Mr Scully says Fair Work inspectors identify underpayments at thousands of businesses nationally each year and resolve the vast majority by working co-operatively with employers, guiding them through the back-payment process and assisting them to put systems in place to ensure they pay their staff correctly in future.

However, if employers refuse to co-operate, Fair Work inspectors will consider compliance action, including issuing Compliance Notices, which lawfully require employers to take prompt action.

“It is important for employers to understand that when a Compliance Notice is issued, the Fair Work Ombudsman is simply seeking to recover wages that should have been paid in the first instance - we are not seeking to be punitive,” Mr Scully said.

However, the Fair Work Ombudsman is willing to initiate legal proceedings where Compliance Notices are subsequently ignored and the Agency believes it is in the public interest to do so.

“Enforcing Compliance Notices is fundamental for maintaining the integrity of Australia's workplace laws,” Mr Scully said.

“Fair Work inspectors are increasingly issuing Compliance Notices in cases where employers with contravention issues refuse to co-operate and we will not tolerate these Compliance Notices being ignored.”

A total of 65 were issued last financial year (2013-14).

Employers and employees seeking assistance can visit [www.fairwork.gov.au](http://www.fairwork.gov.au) or contact the Fair Work Infoline on 13 13 94. A free

interpreter service is available by calling 13 14 50.

Helpful online tools include PayCheck Plus, which assists business owners and employees to determine the correct award and minimum wages for their industry, templates for pay slips and time-and-wages records and a range of fact sheets on workplace entitlements.

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